



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION III**

**FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.  
PHILADELPHIA, PENNSYLVANIA 19103-2852**

**VIA ELECTRONIC MAIL**

Mr. Mark Hinton, Superintendent  
Department of Highway  
New Cumberland Borough  
1120 Market Street  
New Cumberland, PA 17070  
[highway@newcumberlandborough.com](mailto:highway@newcumberlandborough.com)

**Re: Warning Letter: Notice of Potential Noncompliance**

Dear Mr. Mark Hinton:

The United States Environmental Protection Agency, Region III (“EPA”) is sending this Notice of Potential Noncompliance to New Cumberland Borough in response to potential violations identified by EPA during the April 21, 2022, inspection the EPA conducted of New Cumberland Borough (“Borough”). The purpose of the inspection was to observe the Borough’s compliance with the Pennsylvania General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) which was effective on March 16, 2018 and the Borough applied for coverage with a Notice of Intent submitted to the Pennsylvania Department of Environmental Protection (PA DEP).

Section 301 of the CWA, 33 U.S.C. § 1311 prohibits the discharge of any pollutant from a point source to a water of the United States except, among other things, in compliance with an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Section 402(a) of the Act, 33 U.S.C. § 1342(a), which provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Section 402(p) addresses discharges of stormwater from certain facilities, including discharges associated with industrial activity. The discharges are subject to specific terms and conditions as prescribed in the permit.

During the inspection, EPA identified the following potential violations of the Permit and the CWA:

1. Potential Violation 1 – Failure to Conduct Good Housekeeping - During the inspection of the Public Works Garage, a pile of cold patch asphalt was observed under a tarp, there were no berms or curbs observed around the pile, and some material was not covered by

the tarp. The EPA Inspection Team observed what appeared to be oil staining beneath leaf collection equipment in the parking lot of the Public Works Garage. This is a potential violation of:

- a. **MCM 6 Best Management Practice (BMP) 2 of the General Permit** states “The written O&M program shall stress pollution prevention and good housekeeping measures, contain site-specific information, and include the following: ... Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, salt / sand (anti-skid) storage locations and snow disposal areas...”
  - b. Page 7 of the 2016 New Cumberland Operations and Maintenance Manual informs the borough that “When bulk materials are stored outside, they are stored in areas with berms or curbs to prevent stormwater runoff.”
2. Potential Violation 2 – Failure to Maintain Post Construction BMPs - The EPA Inspection Team observed what appeared to be significant erosion on the banks of the BMP at the PA American Water Company (PAWC). This is a potential violation of:
- a. **MCM #5, BMP #3 of the General Permit** requires municipalities to “Ensure adequate O&M of all post-construction stormwater management BMPs that have been installed at development or redevelopment projects that disturb greater than or equal to one acre...”

EPA is aware that Potential Violations #1 and #2 identified above may have already been addressed by the Borough based on a June 3, 2022, email from the Borough Engineer to EPA. Please provide EPA with Photo documentation of the controls the Borough has placed around the cold patch pile and the maintenance of the swale at the PAWC facility. All documentation regarding these areas of potential non-compliance should be sent to EPA **within 30 days of receipt of this letter**. Please email all information to:

Peter Gold (3ED32)  
NPDES Section, Water Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency  
4 Penn Center  
Philadelphia, PA 19103-2029  
Gold.peter@epa.gov

This Warning Letter/Notice of Potential Noncompliance is not an agency final action, and EPA retains all rights to pursue future enforcement actions if you fail to address these potential violations in a timely and appropriate manner. If you have information that shows that you were in compliance with the potential violations identified above at the time of the inspection or you have addressed the areas of potential violations, within 30 days of receipt of

this letter, please provide that information to the contact above. If you have any questions or concerns, please contact Peter Gold, at (215) 814-5236 or [Gold.peter@epa.gov](mailto:Gold.peter@epa.gov).

Sincerely,

Jessica Duffy, Acting Section Chief  
NPDES Section  
Enforcement and Compliance Assurance Division

Cc: Angela Weisel, EPA ([weisel.angela@epa.gov](mailto:weisel.angela@epa.gov))